

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE REPUBLIC OF BULGARIA
REGARDING MUTUAL ASSISTANCE BETWEEN THEIR
CUSTOMS ADMINISTRATIONS**

The Government of the United States of America and the Government of the Republic of Bulgaria, hereinafter referred to as "the Parties",

Considering that offences against customs laws are prejudicial to the economic, fiscal commercial, social and cultural interests of their respective countries;

Considering the importance of assuring the accurate assessment of customs duties and other taxes;

Concerned about the scale and growth of trans-border crime and the smuggling of illicit substances, and concerning that it constitutes a danger to public health and society;

Recognizing the need for international cooperation in matters related to the administration and enforcement of the customs laws of their respective countries;

Having regard to the international conventions containing prohibitions, restrictions and special measures of control in respect of specific goods;

Convinced that action against customs offences can be made more effective by cooperation between their Customs Administrations; and

Having regard also to the international conventions in force for the two Parties in customs matters as well as the Recommendation of the Customs Cooperation Council regarding Mutual Administrative Assistance of December 5, 1953;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of the present Agreement:

1. the term "Customs Administration" means, in the United States of America, the United States Customs Service, Department of the Treasury, and in the Republic of Bulgaria, National Customs Agency, Ministry of Finance;
2. the term "customs laws" means the laws and regulations enforced by the Customs Administrations concerning the importation, exportation, and transit or circulation of goods as they relate to customs duties, charges, and other taxes or to prohibitions, restrictions, and other similar controls respecting the movement of controlled items across national boundaries;
3. the term "information" means data in any form or certified or authenticated copies of documents, records and reports;
4. the term "offense" means any violation or attempted violation of the customs laws;
5. the term "person" means any natural or legal person;
6. the term "property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or an interest in such assets;
7. the term "provisional measures" includes "seizure" or "freezing", which means:
 - a. temporarily prohibiting the conversion, disposition, movement, or transfer of property, or
 - b. temporarily assuming custody or control of property on the basis of an order issued by a court or competent authority.
8. "forfeiture" means the deprivation of property by order of a court or competent authority and includes confiscation where applicable;
9. the term "requesting administration" means the Customs Administration that requests assistance;

10. the term "requested administration" means the Customs Administration from which assistance is requested.

ARTICLE 2

SCOPE OF AGREEMENT

1. The Parties, through their Customs Administrations, shall assist each other, in accordance with the provisions of this Agreement, in preventing, investigating, and repressing any offence.
2. Each Customs Administration shall execute requests for assistance made pursuant to this Agreement in accordance with its national law.
3. This Agreement is intended solely for mutual assistance between the Parties. The provisions of this Agreement shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

ARTICLE 3

SCOPE OF GENERAL ASSISTANCE

1. Upon request, a Customs Administration shall provide assistance in the form of information necessary to ensure the enforcement of the customs laws and the accurate assessment of customs duties and other taxes by the Customs Administrations.
2. Upon request or upon its own initiative, a Customs administration may provide assistance in the form of information, including but not limited to, information concerning:
 - a. methods and techniques of processing passengers and cargo;
 - b. the successful application of enforcement aids and techniques;

- c. enforcement actions that might be useful to suppress offences and, in particular, special means of combating offences; and
 - d. new methods used in committing offences.
- 3. The Customs Administrations shall cooperate in:
 - a. establishing and maintaining channels of communication to facilitate the secure and rapid exchange of information;
 - b. facilitating effective co-ordination;
 - c. the consideration and testing of new equipment or procedures; and
 - d. any other general administrative matters that may from time to time require their joint action.

ARTICLE 4

SCOPE OF SPECIFIC ASSISTANCE

1. Upon request, the Customs Administrations shall inform each other whether goods exported from the territory of one Party have been lawfully imported into the territory of the other Party. If requested, the information shall contain the customs procedure used for clearing the goods.
2. Upon request, a requested administration shall exercise, to the extent of its ability and within the limits of its available resources, special surveillance of:
 - a. persons known to the requesting administration to have committed a customs offence or suspected of doing so, particularly those moving into and out of its territory;
 - b. goods identified by the requesting administration, either in transport or in storage known to be or suspected of being involved in illicit traffic towards or from its territory; and

- c. means of transport known to be or suspected of being used in offences within the territory of the requesting Party.
- 3. Upon request or on their own initiative, the Customs Administrations shall furnish to each other information regarding the activities that may result in offences within the territory of the other Party.
- 4. In situations that could involve substantial damage to the economy, public health, public security, or similar vital interest of the other Party, involving trans-border crime and/or the smuggling of illicit substances or goods, the Customs Administrations shall furnish to each other information without being requested to do so.
- 5. The Parties shall provide assistance through the use of provisional measures and forfeiture and in proceedings involving property, proceeds, and instrumentalities subject to these provisional measures and forfeiture.
- 6. The Parties may:
 - a. Dispose of property, proceeds, and instrumentalities forfeited as a result of assistance provided under this Agreement in accordance with the national law of the Party in control of the property, proceeds, and instrumentalities; and
 - b. To the extent permitted by their respective national laws, transfer forfeited property, proceeds, or instrumentalities, or the proceeds of their sale, to the other Party upon such terms as may be agreed.

ARTICLE 5

FILES AND DOCUMENTS

- 1. Upon request, the Customs Administrations shall provide information relating to transportation and shipment of goods showing value, origin, destination, and disposition of those goods.
- 2. A requesting administration may request copies or authenticated copies of files, documents, and other materials.

3. Unless the requesting administration specifically requests copies, the requested administration may transmit computer-based information in any form. The requested administration shall supply all information relevant for interpreting or utilizing computer-based information at the same time.
4. If the requested administration agrees, officials designated by the requesting administration may examine, in the offices of the requested administration, information relevant to an offence and make copies thereof or extract information therefrom.

ARTICLE 6

WITNESSES

1. The requested administration may authorize its officers to appear as witnesses in judicial or administrative proceedings in the territory of the other Party and to produce files, documents, or other materials or authenticated copies thereof.
2. Where a customs official requested to appear as a witness is entitled to diplomatic or consular immunity, the requested Party will sympathetically consider a waiver of immunity under such conditions as it determines to be appropriate.

ARTICLE 7

COMMUNICATION OF REQUESTS

1. Requests pursuant to this Agreement shall be made in writing directly between officials designated by the Heads of the respective Customs Administrations. Information deemed useful for the execution of requests shall accompany the request. In urgent situations, oral requests may be made and accepted, but shall be promptly confirmed in writing.
2. Requests shall include:
 - a. the name of the authority making the request;

- b. the nature of the matter or proceedings;
- c. a brief statement of the facts and offences involved;
- d. the reason for the request; and
- e. the names and addresses of the parties concerned in the matter or proceeding, if known.

ARTICLE 8

EXECUTION OF REQUESTS

1. The requested administration shall take all reasonable measures to execute a request and shall endeavor to secure any official or judicial measure necessary for that purpose.
2. If the requested administration is not the appropriate agency to execute a request, it shall promptly transmit it to the appropriate agency and so advise the requesting administration.
3. The requested administration shall conduct, or permit the requesting administration to conduct, such inspections, verifications, fact-finding inquiries, or other investigative steps, including the questioning of experts, witnesses, and persons known or suspected of having committed an offence, as are necessary to execute a request.
4. Upon request, the requesting administration shall be advised of the time and place of action to be taken in execution of a request.
5. Upon request, the requested Party shall authorize, to the fullest extent possible, officials of the requesting Party to be present in the territory of the requested Party to assist in execution of a request.
6. The requested administration shall comply with a request provided that such procedure is not prohibited by the national law of the requested Party.

ARTICLE 9

CONFIDENTIALITY OF INFORMATION

1. Information obtained under this Agreement shall be afforded the same degree of confidentiality by the receiving Party that it applies to similar information in its custody.
2. Information obtained under this Agreement may only be used or disclosed for the purposes specified in this Agreement, including use in judicial, administrative, or investigative proceedings. Such information may be used or disclosed for other purposes or by other authorities if the supplying Customs Administration has expressly approved such use or disclosure in writing.
3. Upon request of the requested Party, the requesting Party shall treat information received as confidential except to the extent necessary to fulfill the purposes of this Agreement or to the extent that the requested administration has given its consent. The requested Party shall state its reasons for making a request for confidentiality.
4. This Article shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the Constitution or other applicable national law of the requesting Party in connection with a criminal prosecution. The requesting Party shall give advance notice of any such proposed disclosure to the requested Party.

ARTICLE 10

EXEMPTIONS

1. Where a requested Party determines that granting assistance would infringe upon its sovereignty, security, public policy or other substantive national interest, or would be inconsistent with its national law and regulations, it may refuse or withhold assistance, or may grant it subject to the satisfaction of certain conditions or requirements.
2. If the requesting administration would be unable to comply if a similar request were made by the requested administration, it shall draw attention to that fact in its request. Compliance with such a request shall be at the discretion of the requested administration.

3. The requested administration may postpone assistance on the ground that it will interfere with an ongoing investigation, prosecution, or proceeding. In such instance, the requested administration shall consult with the requesting administration to determine if assistance can be given subject to such terms or conditions as the requested administration may require.
4. In the event that a request cannot be complied with, the requesting administration shall be promptly notified and provided with a statement of the reasons for postponement or denial of the request. Circumstances that might be of importance for the further pursuit of the matter shall also be provided to the requesting administration.

ARTICLE 11

TECHNICAL ASSISTANCE

The Customs Administrations will, to the extent of their ability and within the limits of their available resources, cooperate in the modernization of their administrations to include, inter alia:

1. Organization, structure, working methods and procedures;
2. The exchange of technical experts, trainers and other personnel;
3. The development and improvement of training programs and staff;
4. The operations of laboratories and the exchange of scientific and technical information related to the enforcement of the customs laws; and
5. Any other technical assistance that the Parties consider necessary to reach the purposes of this Agreement.

ARTICLE 12

COSTS

1. The Parties shall normally waive all claims for reimbursement of costs incurred in the implementation of this Agreement with the exception of

expenses for experts and witnesses, fees of experts, and costs of translators and interpreters other than government employees.

2. If expenses of a substantial and extraordinary nature are or will be required to execute the request, the Customs Administrations shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

ARTICLE 13

IMPLEMENTATION OF THE AGREEMENT

1. The United States Customs Service, Department of the Treasury of the United States of America, and the National Customs Agency, Ministry of Finance of the Republic of Bulgaria shall:
 - a. communicate directly for the purpose of dealing with matters arising out of this Agreement;
 - b. after consultation, issue any administrative directives necessary for the implementation of this Agreement; and
 - c. endeavor by mutual accord to resolve problems or questions arising from the interpretation or application of the Agreement.
2. Conflicts for which no solutions can be found will be settled by diplomatic means.

ARTICLE 14

APPLICATION

This Agreement shall be applicable to the Customs territories of both Parties as defined in their national laws and administrative provisions.

ARTICLE 15

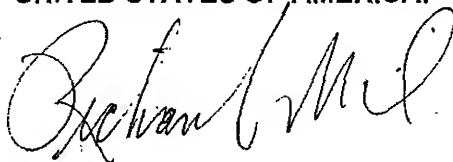
ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force on the first day of the month following the date on which the second of the notifications is received by which the Parties notify each other through diplomatic channels that the requirements of their national law regarding entering into force of this Agreement are completed.
2. Either Party may terminate this Agreement at any time by notification through diplomatic channels. The termination shall take effect three months from the date of notification of termination to the other Party. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.
3. The Customs Administrations shall meet in order to review this Agreement as necessary, or at the end of five years from its entry into force, unless they notify one another in writing that no review is necessary.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Sofia, in duplicate, this sixth day of November 2000, in the English and Bulgarian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
THE REPUBLIC OF BULGARIA:

